**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**
CRIMINAL WRIT PETITION NO.1661 OF 2006

Mr Rajesh P.Thakkar & Anr. .. Petitioners.
Vs
State of Maharashtra & Anr. .. Respondents.

Mr A.M.Saraogi, for the petitioners.
Mr S.V.More, APP for the respondents.

**CORAM : D.B.BHOSALE, J.**
**DATED : 14.08.2006**

P.C.:

1. Heard the learned counsel for the parties.

2. This Court, by its order dated 13.7.06 passed in Cri.Writ Petition No.1463 of 2006, granted liberty to the petitioners therein to file an appropriate application seeking exemption in the light of the judgment of this Court in Bhaskar Sen Vs State of Maharashtra, 2004(4) Mh.L.J.1115. Despite the specific order passed by this Court on 13.7.2006 , the petitioner did not file an application in terms of that judgment and hence the learned Judge appears to have rejected the application filed by the petitioners by the impugned order and hence the petitioners have once again approached this Court. Mr Saraogi, learned counsel for the petitioners, submits that petitioner no.1 Rajesh Thakkar is prepared to personally remain present before the trial Court for recording of his plea and insofar as petitioner no.2 Satyajit Thakkar is concerned he being unwell, alone may be granted

exemption and his plea may be directed to be recorded in his absence as indicated by this Court in Bhaskar Sen's case. Though, I do not find any error/ infirmity in the order passed by the learned Magistrate, considering the overall facts and circumstances of the case and the observations in the impugned order, I am satisfied that the following order shall meet the ends of justice. (i) The statement of Mr Saraogi insofar as petitioner no.1-Rajesh Thakkar is concerned, is accepted. Petitioner no.1 shall remain present on the next date of hearing before the trail Court and shall keep on attending the court as along as the Court does not grant him exemption and his plea is recorded. Insofar as plea of petitioner no.2 is concerned, same may be recorded in terms of the judgment of this Court in Bhaskar Sen Vs. State of Maharashtra, 2004(4) ALL MR 606. The petitioner no.2, however, shall file appropriate application and necessary undertaking as indicated in Bhaskar Sen's case as also in the earlier order passed by this Court dated 13.7.2006 before the trial Court before the next date of hearing. If such an application is filed same may be considered afresh. With these observations, this petition is disposed of.

. In view of this order, liberty to apply for cancellation of nonbailable warrant is granted before the trial Court.

(D.B.BHOSALE,J.)